



Federal Communications Commission  
Washington, D.C. 20554

DA 13-1007

May 6, 2013

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Re: Applications for Renewal of License of WUTB,  
Baltimore, ID No. 60552, File No. BRCDT-  
20120531AJL, et al.

Dear Counsel:

The Commission by the Chief, Video Division, Media Bureau, acting pursuant to delegated authority, has before it a timely petition to deny ("Petition") filed by the Citizens for Responsibility and Ethics in Washington ("CREW"), Melanie Sloan, and Jeremy Miller (collectively "Petitioners")<sup>1</sup> seeking to deny the renewals of television stations WTTG(TV)<sup>2</sup> and WDCA(TV),<sup>3</sup> Washington, DC, and WUTB(TV),<sup>4</sup> Baltimore, Maryland, licensed to Fox Television Stations, Inc. ("Fox"). Fox filed an opposition to the Petition ("Opposition") and the Petitioners filed a reply ("Reply").<sup>5</sup> The Petition was supported by informal objection filed by Geraldine Saran and Bradley Snow and there was also an informal objection by Robert King ("Informal Objections").<sup>6</sup> For the reasons stated below, we deny the Petition and Informal Objection and grant the renewal of WUTB(TV).

**Background.** The Petition is based on the alleged actions of News Corporation ("News Corp."); Rupert K. Murdoch, its Chairman and Chief Executive Officer; British subsidiaries of News Corp.; and officers and employees of those subsidiaries, including Mr. Murdoch's son James. Although Petitioners have not alleged any violations of

<sup>1</sup> Melanie Sloan is the Executive Director of CREW and Jeremy Miller is its Policy Director. Petition at Exhibits A and B.

<sup>2</sup> ID No. 22207, File No. BRCDT-20120531AKE.

<sup>3</sup> ID No. 51567, File No. BRCDT-20120531AKK.

<sup>4</sup> ID No. 60552, File No. BRCDT-20120531AJL. WTTG(TV), WDCA(TV), and WUTB(TV) will be collectively referred to as the "Stations."

<sup>5</sup> CREW has filed a Motion for Leave to File Reply Out of Time. We note that CREW is relying on § 1.45 of our Rules to calculate the applicable time for filing oppositions and replies in renewal proceedings instead of § 73.3584 and that under § 73.3584 its Reply was not late. Its motion, therefore, is moot. 47 C.F.R. § 73.3584.

<sup>6</sup> The Informal Objections do not raise any separate matters, legal or factual. Mr. King's informal objection was styled a petition to deny, but he does not attempt to demonstrate the necessary standing for a petitioner to deny in regard to any of the stations named in his informal objection, which, although it does not raise address conduct at any station licensed to Fox, he attempts to direct against at the renewals of all stations that are licensed to Fox. This decision fully disposes of Mr. King's informal objection on the merits.

the Communications Act or the Commission's Rules, they have alleged that News Corp. and Rupert K. Murdoch have engaged in a pattern of conduct that demonstrates that they and Fox lack the character required to hold a broadcast license.<sup>7</sup> Petitioners have raised allegations of phone hacking, bribery, and other misconduct by employees of News Corp. and its subsidiaries in the United Kingdom.<sup>8</sup> The Petitioners state that these actions have resulted in investigations, both in the United Kingdom and the United States, and in arrests and indictments of former and current employees of News Corp. and its affiliates.<sup>9</sup> None of the allegations pertain to wrongdoing by Fox or the Stations and none of them are supported by an affidavit based upon personal knowledge of the facts alleged. Instead, Petitioners rely on an array of documents including a report by a British Parliamentary Committee<sup>10</sup> ("the "Committee"), documents from British government agencies,<sup>11</sup> transcript materials from a British investigation, Securities and Exchange Commission filings by News Corp., correspondence, and newspaper stories.<sup>12</sup>

In regard to the Committee Report, the Petitioners state that it concluded that Rupert Murdoch was not fit to "exercise stewardship of a major international company."<sup>13</sup> The Petitioners raise other allegations against News Corp. of further wrongdoing, including phone hacking and anticompetitive behavior, in the United States based on news reports and correspondence.<sup>14</sup> Based on the collective reports of wrongdoing, the Petitioners believe that News Corp. and Rupert Murdoch, and by extension Fox, lack the character to hold a broadcast license under our rules and policies. They ask the Commission to hold an evidentiary hearing to investigate the truth of the allegations raised and to determine whether News Corp., Rupert Murdoch, and Fox lack the requisite character to be Commission licensees. At no point do Petitioners point to any adjudicated misconduct to support their claims.

In its Opposition, Fox begins by asserting that the Petition fails on procedural grounds. Fox asserts that it is not supported by a proper affidavit, that it does not rely upon any documents of which the Commission may take official notice, and that it does not present a complaint from a party with standing to challenge the renewals.<sup>15</sup> Fox points out that the Petitioners do not claim personal knowledge of the facts alleged in the Petition.<sup>16</sup> Fox further points out that the Petition relies on (a) newspaper articles and (b) documents compiled in the United Kingdom in the context of different ongoing investigations of alleged misconduct there.<sup>17</sup> Fox argues that the Commission will not rely on newspaper articles to meet the requirement for Section 309(d) that allegations in a petition to deny be supported by the affidavit of a person with personal knowledge of the facts alleged.<sup>18</sup> Fox states that the second category of documents relied on by Petitioners consists of (1) statements and transcripts gathered in a judge-led

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<sup>7</sup> Petition at 15-33.

<sup>8</sup> *Id.* at 15-30.

<sup>9</sup> *Id.* at 15-33.

<sup>10</sup> *House of Commons Culture, Media and Sport Committee, News International and Phone Hacking*, Eleventh Report, HC 903-1, May 1, 2012. ("Committee Report"). Petition, Exhibit M.

<sup>11</sup> *See, e.g., Charging announcement in relation to perverting the course of justice against Rebekah Brooks and others*, The Crown Prosecution Service, May 5, 2012. *Id.*, Exhibit Y.

<sup>12</sup> *See Id.*, Exhibits C-RR inclusive.

<sup>13</sup> Committee Report at ¶ 68.

<sup>14</sup> Petition at 30-33.

<sup>15</sup> Opposition at 1-2, 6-7.

<sup>16</sup> *Id.* at 6.

<sup>17</sup> *Id.* at 6-7.

<sup>18</sup> *Citing Letter of Peter H. Doyle, Chief, Audio Division, Media Bureau, to Richard Zaragoza, et al.*, 24 FCC Rcd 5743, 5747 (2009).



inquiry about the British press culture,<sup>19</sup> and (2) the Committee Report.<sup>20</sup> Fox argues that these documents do not contain an adjudication by an ultimate trier of fact as required by the *1986 Policy Statement*.<sup>21</sup> Fox also contends that the Commission will not take official notice of a document unless it constitutes an “adjudicative fact” as governed by the Federal Rules of Evidence and that none of these documents constitute an “adjudicative fact.”<sup>22</sup> Fox quotes *Western Communications* for the proposition that “an adjudicative fact is defined as one not:

‘subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.’<sup>23</sup>

Fox argues that the transcript materials in the British proceedings are simply testimony and cannot be considered adjudicative facts. Fox also argues that the Committee Report, did not arise out of a trial, did not afford the participants the right of counsel or the right to cross-examine witnesses, and does not constitute an adjudicative fact. Fox notes that the Committee itself issued a sharply divided vote.<sup>24</sup> Fox argues that the lack of adjudicated misconduct makes the Petition fatally flawed.<sup>25</sup>

Fox next claims that the Petitioners lack standing because CREW is an organization whose members reside in the service area, but those members have failed to demonstrate how they would be harmed by the renewal of the stations’ licenses.<sup>26</sup> Fox does not distinguish between the Petitioner CREW and the individual Petitioners, although they have claimed different bases for standing. Fox argues that, although the Commission has recognized the concept of viewer standing, the D.C. Circuit has rejected the idea that there is “a *per se* rule that a person has standing to protect the public ‘interest’ by challenging any decision of the Commission regulating (or...declining to regulate) a broadcaster in whose listening or viewing area the person lives.”<sup>27</sup>

Fox also claims the Petition requests relief which cannot be granted and that the Commission must renew a station’s license pursuant to Section 309(k) of the Communications Act if it finds that the station has served the public interest and that there have been no serious violations of the Communications Act or the Commission’s rules and regulations during the preceding license term.<sup>28</sup> Fox then asserts that, although the allegations raised by CREW are serious and the conduct being investigated is serious, there has not yet been any adjudicated misconduct regarding the allegations raised by the Petitioners.<sup>29</sup> Lacking such adjudicated non-FCC misconduct, Fox argues that there is no basis on which to grant relief. Fox states that there is no close relationship of any kind between Fox and News International and News Group Newspapers, the News Corp. entities which are accused of wrongdoing.<sup>30</sup>

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<sup>19</sup> Exhibits N-R, U. (“The Leveson Inquiry”) The material provided is not a complete set of the materials from the Leveson Inquiry.

<sup>20</sup> Opposition at 6

<sup>21</sup> *Id* at 7, citing *Policy Regarding Character Qualifications in Broadcast Licensing*, Report, Order, and Policy Statement, 102 FCC 2d 1179, 1205 & n. 62 (“1986 Policy Statement”).

<sup>22</sup> *Citing In re Pikes Peak Broadcasting Co.* 12 RCC Rcd 4626 4630 (1997).

<sup>23</sup> *In re Western Communications, Inc.*, 59 FCC 2d 1441, 1455-56 (1976), *reversed on other grounds* (589 F.2d 594) (D.C. Cir. 1978).

<sup>24</sup> Opposition at 8

<sup>25</sup> *Id* at 9.

<sup>26</sup> *Id.*

<sup>27</sup> *Citing Rainbow/PUSH Coalition v. FCC*, 330 F.2d 539, 542 (D.C. Cir. 2003).

<sup>28</sup> Opposition at 2.

<sup>29</sup> *Id* 3.

<sup>30</sup> *Id* at 20-22.

Fox also states that the Petitioners have not established such a relationship, although Fox does not challenge Rupert Murdoch's involvement in the affairs of the various companies.

Finally, Fox points out that Ofcom, the relevant British agency with responsibility over licensing in the United Kingdom, having reviewed the Committee Report and the transcript from the Leveson Inquiry which Petitioners have presented here when it reviewed the same group of allegations regarding misconduct against News Corp. subsidiaries, found News Corp. "fit and proper" to hold a license.<sup>31</sup> Fox contends that this evaluation is comparable to meeting the Commission's character standard.<sup>32</sup>

In their Reply, the Petitioners argue, without Commission precedent, that the evidence they have presented constitutes "adjudicative facts."<sup>33</sup> The Petitioners also argue that they have met their burden to demonstrate standing because the declarations accompanying the Petition "explain how Fox's inability to meet the character requirement for its licensees means Fox cannot be expected to operate its television stations consistent with the requirements of governing communications law, FCC rules, and policies."<sup>34</sup> They state that Fox misconstrues the nature and basis of the parties' claims of standing, asserting that CREW is not a member based organization and is not claiming standing on behalf of its members as Fox asserts.<sup>35</sup> They assert that it is claiming standing because "Melanie Sloan, its executive editor,<sup>36</sup> has appeared on Fox's WTTG station four times on behalf of CREW, and CREW relies on programming content of news stations like those run by Fox to keep current on news events relevant to CREW's mission."<sup>37</sup> CREW asserts that it is harmed because it "cannot rely on the quality and content of Fox broadcasts or that they will comply with the law."<sup>38</sup> The two individual Petitioners claim standing as viewers and claim harm will result to them because they are being deprived of broadcasting provided by a licensee of good character.<sup>39</sup> Citing *UCC v. FCC*,<sup>40</sup> the Petitioners argue that CREW and the individual Petitioners act as "stand-ins for the entire viewing audience, representing the public interest in having Fox comply with the character requirement."<sup>41</sup>

**Standing.** Under the Act Communications Act of 1934, as amended,<sup>42</sup> only a "party in interest" has standing to file a petition to deny. The petition to deny must contain specific allegations of fact demonstrating that the petitioner is a party in interest and that a grant of the application would be inconsistent with the public interest, convenience, and necessity.<sup>43</sup> The allegations of fact, except for those of which official notice may be taken, must be supported by an affidavit of a person with personal knowledge of the facts alleged.<sup>44</sup> Among the facts to be

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<sup>31</sup> *Id* at 16-17. Citing *Decision Under Section 3(3) of the Broadcasting Act 1990 and Section 3(3) of the Broadcasting Act 1996: Licenses Held by British Sky Broadcasting Limited*, released Sept. 20, 2012 (available at <http://stakeholders.ofcom.org.uk/binaries/broadcast/tv-ops/fit-proper/bskyb-final.pdf>).

<sup>32</sup> *Id* at 16.

<sup>33</sup> Reply at 4.

<sup>34</sup> *Id* at 8.

<sup>35</sup> *Id*.

<sup>36</sup> In her Declaration, Ms. Sloan describes herself as CREW's executive director, not editor. Petition, Exhibit A.

<sup>37</sup> Reply at 8 (footnotes omitted).

<sup>38</sup> *Id* at 8.

<sup>39</sup> *Id* at 9.

<sup>40</sup> 359 F.2d 994, 999 (D.C. Cir. 1966).

<sup>41</sup> Reply at 9.

<sup>42</sup> 47 U.S.C. § 309(d); 47 C.F.R. § 73.3584.

<sup>43</sup> 47 U.S.C. § 309(d).

<sup>44</sup> *Id*.



alleged is that the petitioner is a resident of the station's service area and a regular viewer of the station.<sup>45</sup> Both Melanie Sloan and Jeffrey Miller have included declarations in which they make those allegations.<sup>46</sup> Ms. Sloan has stated that she is a resident of Washington, D.C. and a viewer of stations WTTG(TV) and WDCA(TV) and Mr. Miller that he is a resident of Baltimore, Maryland and a viewer of WUTB(TV). Those Petitioners have also alleged harm because, if News Corp., Rupert K. Murdoch and Fox are guilty of the misconduct alleged they may lack the requisite character required by the *1986 Policy Statement*, and Fox may not be qualified to be a licensee.<sup>47</sup> Therefore, we find they have standing. Because they have standing, we do not need to reach the issue of whether a non-member organization like CREW has met the test for organizational standing because CREW does not advance any separate arguments.<sup>48</sup>

**Standard of Review.** In cases involving a petition to deny, the Commission applies a two-step analysis under the public interest standard. The Commission must first determine whether the petition contains specific allegations of fact sufficient to show that granting the application would be *prima facie* inconsistent with the public interest.<sup>49</sup> The first step "is much like that performed by a trial judge considering a motion for directed verdict: if all the supporting facts alleged in the [petition] were true, could a reasonable fact finder conclude that the ultimate fact in dispute had been established."<sup>50</sup> If the petition meets this first step, the Commission must determine whether "on the basis of the application, the pleadings filed, or other matters which [the Commission] may officially notice," the petitioner has raised a substantial and material question of fact as to whether the application would serve the public interest.<sup>51</sup> For the reasons discussed below, we find that all of the Petitioners and the informal objector have failed to meet their burden.

Section 309(k) of the Communications Act states that the Commission shall grant a broadcast renewal application if it "finds, with respect to that station, during the preceding term of its license—

- (A) the station has served the public interest, convenience, and necessity;
- (B) there have been no serious violations by the licensee of this Act or the rules and regulations of the Commission; and
- (C) there have been no other violations of this Act or the rules and regulations of the Commission which, taken together, would constitute a pattern of abuse.<sup>52</sup>

As discussed above, the Petitioners have not alleged any specific violations of the Communications Act or the sections of the Commission's Rules by the licensee, but have instead alleged failure to have the requisite character to

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<sup>45</sup> See *Rainbow/PUSH Coalition*, 330 F.3d 1235 (D.C. Cir. 2005). It is not necessary for a petitioner to make a separate showing that it has suffered an "injury in fact." Factual allegations as to why grant of a broadcast application would not serve the public interest, combined with a showing of local residence, "supply the predicate for finding injury in fact." *Petition for Rulemaking to Establish Standards for Determining the Standing of a Party to Petition to Deny a Broadcast Application*, Memorandum Opinion and Order, 82 FCC 2d 89, 98–99 (1980).

<sup>46</sup> Petition, Exhibits A and B.

<sup>47</sup> See *1986 Policy Statement*, 102 FCC 2d at 1228.

<sup>48</sup> We note that other organizations with a mission similar to CREW's have represented individuals with standing in Commission proceedings.

<sup>49</sup> 47 U.S.C. § 309(d)(1); *Astroline Communications Co., Ltd. Partnership v. FCC*, 857 F.2d 1556 (D.C. Cir. 1988) ("*Astroline*").

<sup>50</sup> *Gencom, Inc. v. FCC*, 832 F.2d 171, 181 (D.C. Cir. 1987) ("*Gencom*").

<sup>51</sup> *Astroline*, 857 F.2d at 1561; 47 U.S.C. § 309(e).

<sup>52</sup> 47 U.S.C. § 309(k)(1).

hold a license.<sup>53</sup>

Although the Commission will consider non-FCC misconduct in determining whether an applicant has the requisite character to hold a Commission license, the scope of such review is limited.<sup>54</sup> As Petitioners correctly note, for non-FCC misconduct, the Commission generally only considers “adjudicated misconduct” involving (1) fraudulent statements to government agencies; (2) certain criminal convictions; and (3) violations of broadcast related anti-competitive and antitrust statutes.<sup>55</sup> In some instances, there may be “nonbroadcast misconduct so egregious as to shock the conscience and invoke almost universal disapprobation.”<sup>56</sup> The review of such misconduct is not limited to the applicant itself. The Commission may consider non-FCC-related misconduct of an applicant’s parent company if it finds that there is “a close on going relationship between the parent and subsidiary[,]...the two have common principals, and if the common principals are actively involved in day-to-day operations of the broadcast subsidiary.”<sup>57</sup> The Petitioners have argued and Fox has not disputed that News Corp. and Mr. Murdoch have a close on-going relationship and that the shared named principal is actively involved in the operations of the broadcast subsidiary. However, we do not need to address the significance of these relationships or the question of whether the actions of News Corp.’s British subsidiaries are relevant to Fox at this time because, as discussed below, there have been no final adjudications on any of the matters raised by the Petitioners.

The Committee Report states that “a select committee is not a judicial process.”<sup>58</sup> The focus of that inquiry was whether Parliament had been misled and whether an issue of contempt had been raised, not whether phone-hacking had taken place and the Committee was at pains not to interfere with ongoing investigations into such allegations.<sup>59</sup> Ultimately, the Committee did not make a final conclusion on the issue of contempt, but left that decision to the full House of Commons.<sup>60</sup> We also do not believe that the Ofcom decision, which states that it does “not consider that the evidence currently available to Ofcom provides a reasonable basis on which to conclude that Rupert Murdoch acted in a way that was inappropriate in relation to phone hacking, concealment or corruption by NGN or News International,”<sup>61</sup> is a final adjudication. In discussing possible offenses by News Corp., Ofcom specifically acknowledges that investigations are ongoing and that its decision is based on the information available to it at that time.<sup>62</sup>

Whether the Commission is reviewing non-FCC misconduct of an applicant, its parent company, or its principals, it looks for adjudicated misconduct. In the *1986 Policy Statement*, the Commission stated, “[T]here must be an ultimate adjudication by an appropriate trier of fact, either by a government agency or court, before we will

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<sup>53</sup> As discussed below, Petitioners have failed to meet the threshold requirement of presenting evidence of adjudicated misconduct. Therefore, we do not need to reach Fox’s question of whether such misconduct is relevant in the renewal context. *See, e.g. ACC Licensee, Inc.*, 22 FCC Rcd 18535, 18537(2007) (“*ACC Licensee*”).

<sup>54</sup> *1986 Policy Statement* at 1190-91.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.* at 1205, n. 60.

<sup>57</sup> *1986 Policy Statement* at 1218-19.

<sup>58</sup> Petition, Exhibit M at 6. The Committee Report also states that statements give to the Committee are not taken under oath. However, it goes on to say, “Witnesses found to have misled a select committee, to have willfully suppressed the truth, to have provided false evidence and even to have prevaricated have all been considered to be guilty of contempt of Parliament.” *Id. Citing, Erskine May, Parliamentary Practice*, 24<sup>th</sup> ed. pp. 252-253.

<sup>59</sup> Petition, Exhibit M at 7.

<sup>60</sup> *Id.* at 85. The phrase in which the Committee Report said that Rupert Murdoch was “not a fit person to exercise the stewardship of a major international company,” was preceded by the Committee’s statements that Mr. Murdoch should have taken steps to become more fully informed regarding the allegations of phone hacking and that News Corporation and News International lacked effective corporate governance. *Id.* at 70. It was not an adjudication of wrongdoing or a character finding.

<sup>61</sup> *Ofcom Decision* at ¶ 38. Ofcom made similar findings in regard to James Murdoch. *Id.* at ¶ 14, 32-33.

<sup>62</sup> *Id.* at ¶ 39.



consider the activity in our character determinations.”<sup>63</sup> Of the cases cited by the Petitioners on this point, two involved proceedings in which the parties had been convicted of child molestation prior to having their licenses revoked and the third involved a proceeding in which an FM applicant had first concealed his arrest and later been convicted of drug trafficking charges.<sup>64</sup> However, in each case, the Commission still required adjudicated misconduct before taking action.<sup>65</sup> None of the allegations raised by Petitioners here involves adjudicated misconduct. Even the Committee Report, which was the product of a Parliamentary investigation, was not in form or result the same as an adjudication by a court or agency. The Committee did not permit the participants to be represented by counsel or to cross-examine witnesses, and its decision did not result in penalties to the parties involved. Therefore, there is no basis in the record for us to take any action or to commence a hearing against the stations’ renewals based on the allegations raised by Petitioners at this time.<sup>66</sup>

Furthermore, the Petitioners have not presented as evidence any of the types of documents that we would accept in making a determination to proceed against an applicant or licensee. News reports, whether from newspapers or the Internet, are not the equivalent of statements supported by affidavits made by individuals with personal knowledge of the facts alleged.<sup>67</sup> We will not consider them here. The Committee Report, the Leveson Inquiry transcripts, the Charging Orders, the correspondence, and the remaining material presented by the Petitioners neither represent an adjudication made by an ultimate trier of fact as required by the *1986 Policy Statement*<sup>68</sup> nor are they adjudicative facts. They are all records of investigations and inquiries, but not of an adjudication by an agency or court.<sup>69</sup>

The material presented illustrates, however, that serious questions have been raised regarding non-FCC

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<sup>63</sup> *1986 Policy Statement*, 102 FCC 2d at 1206. See also, *In the Matter Regarding Character Qualifications in Broadcast Licensing*, Policy Statement and Order, 5 FCC Rcd 3252 (1990) (“We continue to believe that it is appropriate to refrain from making licensing decisions based on mere allegations of relevant non-FCC misconduct, even where those allegations have resulted in an indictment or are otherwise in the process of being adjudicated by another agency or court.”)(“*1990 Policy Statement*”).

<sup>64</sup> *Robert D. Landis*, Order of Revocation, 22 FCC Rcd 19979, 19981-2 (2007)(child molestation conviction); *Lonnie L. Keeney*, Order of Revocation, 24 FCC Rcd 2426, 2429 (2009)(child molestation conviction); *Williamsburg County Broadcasting*, Order to Show Cause, 5 FCC Rcd 3034 3035-6 (1990). See also, *Westinghouse Broadcasting Company, Inc.*, Memorandum Opinion and Order, 75 FCC Rcd 736, 738 (1980) (guilty plea and Offer of Proof in foreign bribery case by affiliate company not sufficient basis for Commission to raise questions regarding broadcaster’s character to remain a licensee based on facts of case).

<sup>65</sup> On the other hand, we are not convinced by Fox’s argument that we must confine our review of character solely to actions that took place at the station. Each of the cases cited, one of which involved an FM licensee, relied on actions that did not involve the station at issue. *Id.* Although we do not need to reach the issue of its applicability here because of the lack of adjudicated misconduct, this decision should not be interpreted as an endorsement of Fox’s position that the actions of a licensee’s parent or of affiliated companies of actions not directly connected to a station, even though these actions transgress the standards set out in the *1986 Policy Statement* or the *1990 Policy Statement* cannot implicate a station’s renewal application.

<sup>66</sup> There is not enough information in the record to determine the validity of Fox’s assertions regarding the applicability of the finding by Ofcom in *News Corp.*’s favor of its fitness to hold a license is in any way relevant or comparable to our character evaluation of a licensee. We do not need to reach the question and will not consider it here. See Opposition at 16.

<sup>67</sup> *ACC Licensee*, 22 FCC Rcd 18535, 18538.

<sup>68</sup> *1986 Policy Statement*, 102 FCC 2d at 1205.

<sup>69</sup> See *id.* In their Reply, Petitioners state that “[t]he usual method of establishing adjudicative facts is through the introduction of evidence, *ordinarily consisting of the testimony of witnesses.*” Citing Fed. R. Evid. 201 (emphasis by Petitioners) for the proposition that we should treat the information contained in the Committee Report and the Leveson Inquiry transcripts as adjudicative facts. This confuses the material used to establish adjudicative facts with the facts themselves.

misconduct by News Corp. subsidiaries, which has taken place in the United Kingdom, and that other agencies, with more appropriate expertise and resources, are in the process of investigating these and related allegations. The Commission is traditionally reluctant to consider unadjudicated, non-communications matters and will generally decline to make initial determinations in such matters. Rather, it ordinarily will await the determinations of entities that hold primary responsibility for addressing non-communications related misconduct and incorporate the results of those entities' conclusions into its own decisions.<sup>70</sup> We believe this approach is particularly appropriate where, as here, the primary misconduct that has been alleged did not take place in the United States and no relevant charges have been brought as yet under United States law.

Our ruling today does not minimize the seriousness of the allegations that have been raised, does not represent a judgment on the merits of any ongoing investigation of those allegations, and does not represent a predetermination of how the Commission will act should there ultimately be an adjudication on the merits of any of the allegations that have been raised. If such an adjudication on the merits does take place, the Commission will review the facts at that time and take such action as may be appropriate.

In regard to WUTB(TV), Baltimore, Maryland, this completes our review of the station's renewal application. Based on the record before us, we conclude that the assignee is fully qualified to hold the license and that grant of the application will serve the public interest, convenience and necessity.<sup>71</sup>

These actions are taken pursuant to Section 0.61 and 0.283 of the Commission's rules, 47 C.F.R. §§ 0.61, 0.283, and Sections 4(i) and (j), 303(r), and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 303(r), and 309.

ACCORDINGLY, IT IS ORDERED THAT, the petition to deny filed by the Citizens for Responsibility and Ethics in Washington, Melanie Sloan, and Jeremy Miller and the informal objection filed by Geraldine Saran seeking to deny the renewals of television stations WTTG(TV), ID No. 22207, File No. BRCDDT-20120531AKE, and WDCA(TV), Washington, DC, ID No. 51567, File No. BRCDDT-20120531AKK, and WUTB(TV), Baltimore, Maryland, ID No. 60552, File No. BRCDDT-20120531AJL ARE DENIED. IT IS FURTHER ORDERED THAT the application for renewal of license of television station WUTB(TV), Baltimore, Maryland, ID No. 60552, File No. BRCDDT-20120531AJL IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION



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cc:

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Fox Television Stations, Inc.

<sup>70</sup> *In re Existing Shareholders of Clear Channel Communications, Inc.*, 23 FCC Rcd 1421, 1433 n.80 (2008).

<sup>71</sup> As noted by Fox in WUTB(TV)'s renewal application, the Media Bureau has sent a letter to Fox indicating that the Commission is investigating allegations raised by third parties concerning the accuracy, completeness and truthfulness of representations made by Fox in connection with WWOR-TV's 2007 license renewal application. See *Letter from William T. Lake, Chief, Media Bureau, to Fox*, Letter, 26 FCC Rcd 1928 (2011). Our review of that matter is ongoing and our decision here is not an adjudication of the matters raised there. Any decision here is subject to our final determination of the matters raised there.



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